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10 United States of America
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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION
15

16 UNITED STATES OF AMERICA AND THE) NO. CV 11-03192 GAF (FMOx)
STATE OF CALIFORNIA ex rel.)
17 CHARLES M. STOVALL,) SUGGESTION OF DISMISSAL OF *PRO*
) *SE* RELATOR'S *QUI TAM* CLAIMS
18 Plaintiffs,) WITHOUT PREJUDICE TO THE UNITED
) STATES
19 v.)
)
20 MCCROMETER, INC., DANAHER INC.,)
AND DOES 1 THROUGH 10,)
21 INCLUSIVE,)
)
22)
Defendants.)
23

1 The United States of America ("the United States"), the real
 2 party in interest as to Counts I-IV of the *qui tam* plaintiff
 3 ("relator") Charles M. Stovall's complaint in this action,
 4 respectfully suggests that the Court dismiss those four counts
 5 without prejudice to the United States for the following reason.
 6 After the United States declined to intervene in this action, the
 7 relator elected to proceed *pro se*. Binding precedent in the Ninth
 8 Circuit forecloses a relator from proceeding *pro se* because neither
 9 the general *pro se* provision, 28 U.S.C. § 1654, nor the False
 10 Claims Act, 31 U.S.C. § 3729 et seq., authorizes a *qui tam* relator
 11 to proceed *pro se* when acting on behalf of the United States. See
 12 Stoner v. Santa Clara Co. Office of Educ., 502 F.3d 1116, 1126-28
 13 (9th Cir. 2007). See also United States ex rel. Mergent Services,
 14 Inc. v. Flaherty, 540 F.3d 89, 93-94 (2d Cir. 2008) (citing, inter
 15 alia, 28 U.S.C. § 1654 and Stoner, 502 F.3d at 1126-28) ("Because
 16 relators lack a personal interest in False Claims Act *qui tam*
 17 actions, we conclude that they are not entitled to proceed *pro se*.
 18 [¶] Our holding is in accord with all of the circuits [including
 19 the Ninth Circuit] that have considered the issue.").

21 Dated: November 17, 2011

Respectfully submitted,

22 ANDRÉ BIROTTE JR.
 23 United States Attorney
 24 LEON W. WEIDMAN
 25 Assistant United States Attorney
 26 Chief, Civil Division
 27 WENDY L. WEISS
 28 Assistant United States Attorney
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/S/ - David K. Barrett

 DAVID K. BARRETT
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 United States of America

PROOF OF SERVICE BY MAIL

I am over the age of 18 and not a party to the within action. I am employed by the Office of United States Attorney, Central District of California. My business address is 300 North Los Angeles Street, Suite 7516, Los Angeles, California 90012.

On November 17, 2011, I served **SUGGESTION OF DISMISSAL OF PRO SE RELATOR'S QUI TAM CLAIMS WITHOUT PREJUDICE TO THE UNITED STATES** on each person or entity named below by enclosing a copy in an envelope addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below following our ordinary office practices. I am readily familiar with the practice of this office for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

Date of mailing: November 17, 2011. Place of mailing: Los Angeles, California.

Person(s) and/or entity(ies) to whom mailed:

Charles M. Stovall
601 N. Kirby St., #527
Hemet, CA 92545

Pro Se Relator

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on November 17, 2011 at Los Angeles, California.


ANGELA FIORE